IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

FRIDAY, THE 13TH JULY 2007 / 22ND ASHADHA 1929

WP(C).No. 17482 of 2007(F)

PETITIONERS:

1. **KEETHADATH ABDUL LATHEEF HAJI,**
   S/O. MOOSAN, AGED 80 YEARS, BUSINESS,
   "SABIRA COTTAGE", KEEZHOOR AMSOM DESOM,
   THALASSERY TALUK, IRITTY P.O., KANNUR DISTRICT.

2. **THEEYATHIKANDY VAZHAYIL AYISHAKUNHI,**
   W/O. KEETHADATH ABDUL LATHEEF HAJI,
   AGED 75 YEARS, RESIDING AT "SABIRA COTTAGE",
   KEEZHOOR AMSOM DESOM, THALASSERY TALUK,
   IRITTY P.O., KANNUR DISTRICT.

BY ADV. SRI.R.SURENDRAN.

RESPONDENTS:

1. **STATE OF KERALA, REPRESENTED BY**
   SECRETARY TO GOVERNMENT, PUBLIC WORKS DEPARTMENT,
   SECRETARIAT, THIRUVANANTHAPURAM.

2. **ASSISTANT ENGINEER,**
   PWD (ROADS SECTION), IRITTY P.O.,
   KANNUR DISTRICT.

3. **SECRETARY TO GOVERNMENT,**
   REVENUE DEPARTMENT, SECRETARIAT,
   THIRUVANANTHAPURAM.

4. **THE DISTRICT COLLECTOR,**
   COLLECTORATE, KANNUR.

5. **THE TAHSILDAR,**
   THALASSERY TALUK, THALASSERY, KANNUR DISTRICT.

W.P.(C). NO.17482/2007:

6. THE TALUK SURVEYOR,
OFFICE OF THE TALUK SURVEYOR,
THALASSERY TALUK, THALASSERY, KANNUR DISTRICT.

BY GOVT. PLEADER SRI. I.V. PRAMOD.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 13/07/2007, ALONG WITH W.P.(C). NO. 18171/2007 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:-

W.P.(C). NO.17482/2007:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE DOCUMENT NO. 1779/1975 DTD. 29/05/1975 OF SRO ULIYIL.

EXT.P.2: COPY OF THE DOCUMENT NO. 1848/1985 DTD. 24/07/1985 OF SRO ULIYIL.

EXT.P.3: COPY OF THE DOCUMENT NO. 1849/1985 DTD. 24/07/1985 OF SRO ULIYIL.

EXT.P.4: COPY OF THE SURVEY PLAN DTD. 21/08/1991 AND COUNTERSIGNED BY THE TAHSILDAR ON 28/08/1991.

EXT.P.5: COPY OF THE SITE PLAN DTD. 17/05/1991 ISSUED BY THE SPECIAL GRADE EXECUTIVE OFFICER, KEEZHOOR-CHAVASSERY PANCHAYAT.

EXT.P.5.A: COPY OF THE PERMIT DTD. 17/05/1991 ISSUED BY THE SPECIAL GRADE EXECUTIVE OFFICE, KEEZHOOR-CHAVASSERY PANCHAYAT.

EXT.P.6: COPY OF THE SITE PLAN ISSUED BY THE SPECIAL GRADE EXECUTIVE OFFICER, KEEZHOOR-CHAVASSERY PANCHAYAT AS PER SANCTION IN B.A. NO. 168/92-93.

EXT.P.6.A: COPY OF THE PERMIT ISSUED BY THE SPECIAL GRADE EXECUTIVE OFFICER, KEEZHOOR-CHAVASSERY PANCHAYAT AS PER SANCTION IN B.A. NO. 168/92-93.

EXT.P.7: COPY OF THE PROCEEDINGS OF THE TAHSILDAR DTD. 18/02/1999.

EXT.P.8: COPY OF THE NOTICE/ORDER DTD. 05/06/2007 ISSUED BY THE R.2.

EXT.P.9: COPY OF THE NOTICE/ORDER DTD. 05/06/2007 ISSUED BY THE R.2.

RESPONDENT'S EXHIBITS: NIL.

//TRUE COPY//

prv.

S. SIRI JAGAN, J.

WP(C) Nos. 17482, 18078, 18112, 18132, 18139, 18140, 18166 & 18171 OF 2007

Dated this the 13th day of July, 2007

J U D G M E N T

The petitioners are challenging notices issued by the second respondent under the Kerala Land Conservancy Act directing them to vacate the properties mentioned in the impugned notices. They raise several contentions including violation of principles of natural justice in so far as the petitioners have not been given any prior notice or hearing. The petitioners also raise a contention that the second respondent does not have jurisdiction to issue the said notices under the Kerala Land Conservancy Act.

2. I have heard the learned Government Pleader also. He is unable to satisfy me that while issuing the impugned notices, principles of natural justice have been complied with.

3. Since there is a dispute as to whether the Assistant Engineer has jurisdiction to decide the matter, I think that it is appropriate that the concerned Tahsildar,

who admittedly has jurisdiction, decides the matter.

4. In the above circumstances, I quash the impugned notices without prejudice to the right of the concerned Tahsildar to take appropriate action in the matter, after issuing show cause notices to the petitioners directing them to show cause as to why they should not be evicted from the property, giving them at least one week's time to file objections. Thereafter, the petitioners shall be given an opportunity of being heard which shall include an opportunity to adduce evidence also. Pursuant thereto, speaking orders shall be passed by the Tahsildar concerned meeting the contentions of the petitioners on the basis of evidence to be adduced by them. Until final orders thus passed are communicated to the petitioners, they shall not be evicted from the properties in question.

The writ petitions are disposed of as above.

S. SIRI JAGAN,
Judge

Mbs/

S.SIRI JAGAN, J

W.P.(C) NO. OF 2001

J U D G M E N T

DATED:01-06-2007